

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-2(c)	
George J. Gerro, Esq. 530 S. Glenoaks Blvd., Suite 200 Burbank, CA 91502 Tel: (818) 840-0000 George@GerroLaw.com <i>Pro Se Creditor and Appellant</i>	
In Re:	Case No.: 22-19361 (MBK) (Jointly Administered)
BLOCKFI INC., et al., ¹	Chapter 11
Debtors.	Honorable Michael B. Kaplan

U.S. BANKRUPTCY COURT
FILED
TRENTON, NJ

2023 SEP 20 P 12:35

JEANIE A. NAUGHTON

BY: 
DEPUTY CLERK

APPELLANT GEORGE J. GERRO'S STATEMENT OF ISSUES ON APPEAL AND DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AS TO APPELLANT GEORGE J. GERRO'S NOTICE OF APPEAL (Docket No. 1453) FROM AN ORDER DISALLOWING PROOF OF CLAIM NUMBER 12386 (Docket No. 1431)

Pursuant to Rule 8009(a) of the Federal Rules of Bankruptcy Procedure, Appellant George J. Gerro ("Gerro"), in his capacity as a disputed creditor of debtor BlockFi Lending LLC ("BlockFi"), respectfully submits the following statement of issues to be presented on appeal, and designation of items for inclusion in the record on appeal, in connection with Gerro's appeal from the following final order dated August 30, 2023 *Order Granting Debtors' Fourth Omnibus Objection to Certain Claims (duplicates, books and records, debtor not liable) and Denying*

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC. (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 100 Horizon Center Blvd., 1st and 2nd Floors, Hamilton, NJ 08691.

Gerro's Cross-Motion to Estimate [Docket No. 1431] (collectively with the incorporated *Memorandum Decision* dated August 29, 2023 [Docket No. 1420], the "Order").

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Whether the Order erroneously interprets California Financial Code section 22009 by ruling that BlockFi, a California Finance Lender, may retain pre-default use and possession of personal property securing its loan, and declare a forfeiture of said collateral, notwithstanding the statute's plain language limiting a security interest to "personal property, the use and possession of which property is retained by **other than** the mortgagee or lender." *Ibid.* (emphasis added).
2. Whether BlockFi violated Uniform Commercial Code section 9-207(c) and, by implication, California Financial Code section 22326 by converting, charging, and concealing from Gerro, all proceeds that BlockFi received from Gerro's collateral.
3. Whether the Order erroneously applied—or failed to apply—the California Financing Law's statutory remedies required by California Financial Code section 22750 *et seq.*
4. Whether the Order erroneously applied—or failed to apply—contract law, by holding that Gerro's email to BlockFi dated April 27, 2020 did not constitute an acceptance of BlockFi's offer to reinstate his loan, as set forth in an email to Gerro dated March 24, 2020.
5. Whether the Order erroneously applied—or failed to apply—California Commercial Code section 9626(b)(1)(A), requiring BlockFi to bear the "burden of proving compliance with the provisions of [Uniform Commercial Code section 9-601 *et seq.*] relating to collection, enforcement, disposition, and acceptance" of Gerro's collateral, since BlockFi failed to present any evidence that BlockFi actually disposed of Gerro's collateral and did so in a commercially reasonable manner.

DESIGNATION OF THE RECORD ON APPEAL

Without waiving any arguments on appeal, Gerro designates each of the following documents for inclusion in the record on appeal (including any exhibit, memorandum, or certification attached thereto). Gerro reserves the right to supplement this designation and the record on appeal.

Docket Entries – <i>In re BlockFi Inc., et al.</i> , Case No.: 22-19361 (MBK) (Jointly Administered)			
	ECF No.	Docket Entry Date	Description
1.	17	11/28/2022	First Day Declaration of Mark Renzi
2.	834	05/04/2023	Ad Hoc Committee Response to Debtor’s Motion to Honor BlockFi Wallet, etc. (“ <u>Wallet Motion</u> ”)
3.	842	05/07/2023	Stipulated Facts
4.	853	05/09/2023	Transcript upon Hearing on Debtor’s Wallet Motion
5.	1069	06/14/2023	BlockFi’s Fourth Omnibus Objection to Certain Claims, including Gerro’s Proof of Claim No. 12386
6.	1192	07/13/2023	Gerro’s Response to BlockFi’s Objection to his Claim
7.	1341	08/10/2023	BlockFi’s Reply in Support of its Objection to Gerro’s Claim
8.	1369	08/18/2023	Transcript of the Hearing on August 17, 2023 upon BlockFi’s Objection to Gerro’s Claim
9.	1420	08/29/2023	Memorandum Decision Disallowing Gerro’s Claim
10.	1431	08/30/2023	Order Disallowing Gerro’s Claim
11.	1453	09/07/2023	Notice of Appeal to the United States Court for the District of New Jersey

CERTIFICATION REGARDING TRANSCRIPTS

Federal Rules of Bankruptcy Procedure rule 8009(b)(1) requires an appellant to either:

(i) order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal and file a copy of the order with the bankruptcy clerk, or (ii) file with the bankruptcy clerk a certificate stating that the appellant is not ordering a transcript. Appellant hereby certifies to the Clerk of Court that he is not ordering any transcripts that are not already included in the record on appeal.

Dated: September 15, 2023

George Gerro

/s/ George J. Gerro

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